

Environment & Climate News

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The Monthly Newspaper For Common-Sense Environmentalists

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Wyoming Court Rejects Yellowstone Snowmobile Ban

by James M. Taylor

The latest volley in an ongoing battle over snowmobiles in Yellowstone Park was launched on February 10, when U.S. District Judge Clarence Brimmer in Wyoming blocked a snowmobile ban issued in December by a federal district judge in Washington DC.

"Wyoming and ISMA [International Snowmobile Manufacturers Association] Plaintiffs demonstrated irreparable harm
YELLOWSTONE p. 7

Supreme Court Rules EPA Can Override States

by Ben Lieberman

In an ongoing fight between states and the federal government over control of environmental policy, the federal government has notched an important victory in the U.S. Supreme Court.

On January 21, the Court narrowly ruled in favor of the Environmental Protection Agency (EPA) in its dispute with the state of Alaska over a mine permit. The consequence
OVERRIDE p. 18

AC Ruling Puts Freeze on Consumer Buying

by Jerry Taylor

On January 13, a federal appeals court overturned a Bush administration rule that would increase energy efficiency standards for central air conditioners and heat pumps by 20 percent. The court ordered the Bush rule be replaced by a proposal from the Clinton administration that would require a 30 percent increase in energy efficiency.
RULING p. 16

New Jersey Adopts California's Vehicle Emissions Standards

by James M. Taylor

On January 12, New Jersey Governor James McGreevey (D) signed legislation, passed earlier that day by both houses of the state legislature, applying California's greenhouse gas emission standards to vehicles sold in the state.

Federal law requires states to adopt either the U.S. Environmental Protection Agency's vehicle emission standards or California's more stringent standards. The California standards have been rejected across the country, although a handful of Northeastern states—Maine, Massachusetts, New York, and Vermont—have adopted them.

New Jersey's new law will require automakers to sell 40,000 gas-electric hybrid vehicles and 128,000 low-emission vehicles by 2009. Automakers must also market zero-emission vehicles by 2012, even though the technology does not currently exist to make such vehicles feasible. Legislators are counting on hydrogen technology to make significant advances by then.

"We're building a critical mass of clean cars in the Northeast as we challenge automakers to develop new vehicles for our market," said Bradley
NEW JERSEY p. 13

Automakers have unveiled vehicles that use low-sulfur fuel to meet EPA's new "Tier 2" requirements.



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EMISSIONS

California Law Could Force 30% Cut in GHG Emissions

by James M. Taylor

California Air Resources Board (CARB) officials have begun drafting plans to implement legisla-
tion requiring "maximum feasible and
cost-effective" reductions in the state's
greenhouse gas emissions. The legis-
lation, A.B. 1493, was signed into law
by former Governor Gray Davis (D)
in 2002.

A California air quality official told
the environmental news service
Greenwire the proposed standards
would force automakers to reduce
greenhouse gas emissions by up to 30
percent. The standards would begin
taking effect in 2006 and would apply
to all cars by model year 2009.

"We think that there are many tech-
nologies available that can lead to sig-
nificant reductions of greenhouse gas
emissions," said Charles Shulock, a
vehicle program specialist with CARB.

High Price to Pay

Automobile industry analysts, how-
ever, warned the California mandate
will significantly increase the price of
new vehicles sold in the state.

For example, Honda offers a low-
emission gas-electric hybrid version
of its popular Honda Civic. Whereas
a conventional gas-powered Civic
retails for as little as \$13,010, the
starting price for a Civic hybrid is
\$19,650—50 percent more expensive
than its gas-powered counterpart.
And Honda builds the hybrid at a
smaller profit margin than the gas-
powered Civic.

The Civic hybrid engine sacrifices
vehicle performance, as the engine is
less powerful than that of its gas-pow-
ered counterpart. Although the hybrid
gets roughly 30 percent better gas
mileage than a conventional Civic, few
if any motorists will drive enough to
recoup the higher price. Moreover, the
hybrid requires a \$2,000 battery
replacement every 100,000 miles or
so, virtually wiping out any long-term

savings in fuel costs.

To a limited extent, automakers
will be permitted to fulfill California's
new emission standards by alterna-
tive means, such as planting trees.
But CARB plans to tightly cap the
amount of credits automakers can
attain by such methods. "The goal is
to improve the vehicles themselves,"
said Shulock.

Challenges Expected

Governor Arnold Schwarzenegger (R)
has pledged to support the new rules
and defend them against expected
legal challenges. "California has
always led the nation in clean air pro-
grams, and federal law gives us the
right to adopt standards more strin-
gent than those in other states," said
Schwarzenegger. "California's land-
mark legislation to cut greenhouse
gases is now law, and I will work to
implement it and to win the expected
challenges in court along the way."

State officials will have to defend
the law against claims it was imple-
mented in an effort to regulate fuel
economy, a matter courts have ruled is
reserved for action by the federal gov-
ernment. Although the law does not
specifically mandate hikes in fuel
economy, there is currently no other
effective way to curb greenhouse gas
emissions by automobiles. Under fed-
eral law, state governments are not
allowed to preempt federal fuel effi-
ciency standards.

California has been down this road
before. In 1990, state lawmakers
passed a law requiring that 10 per-
cent of cars sold in California be zero-
or near-zero emissions by 2003. A fed-
eral judge in June 2002 prohibited
enforcement of the law, deeming it an
implicit effort to mandate fuel econo-
my standards. End runs around mat-
ters reserved for the federal govern-
ment—even if accomplished indirect-
ly—would not be tolerated, the court
ruled. Critics of California's new emis-

**"California has always
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more stringent than
those in other states."**

GOVERNOR ARNOLD
SCHWARZENEGGER

sions law say the same logic applies.

"Is California's bill about global
warming or gas mileage?" asked Bill
Becker, executive director of the
State and Territorial Air Pollution
Program Administrators, based in
Washington DC. "I don't know, but
it will address both."

"The danger is that Californians
may lose the choice to buy the vehi-
cles they need for their families and
work," said Eron Shostek, spokesman
for the Alliance of Automobile
Manufacturers. "This gives unelected
bureaucrats a blank check to design
the cars that Californians will drive.
The Air Resources Board wants every-
one driving around in golf carts."

Shostek pointed out consumers
already have the choice of buying
small, fuel-efficient cars. However, he
noted, combined sales of the 10 most
fuel-efficient cars in America repre-
sent only 1.5 percent of vehicles sold.
"Consumers are going to be angry
when they find they can't have the
SUV, or pickup, or minivan they
want," Shostek said.

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Experts Expose Flaws in Global Warming Extinction Predictions

by James M. Taylor

A January 8 article in *Nature* magazine created a media sensation by predicting global warming will cause between 15 and 37 percent of the Earth's species to go extinct by the middle of this century unless immediate and drastic action is taken.

But no sooner did the article gain the attention of the popular media than experts exposed its serious flaws.

The article, given extensive coverage in virtually every major newspaper in the country, claimed only a major shift in economic policy and a rapid implementation of new technologies would forestall a monumental die-off of species. After studying a sample of plants and animals around the globe, and then using computer programs to predict twenty-first century global warming, the authors claimed more than a million species will disappear by the year 2050.

Lead author Chris Thomas claimed the next few decades will see one of the worst mass extinctions since a meteor wiped out the dinosaurs 65 million years ago. "The midrange estimate is that 24 percent of plants and animals will be committed to extinction by 2050," Thomas told the *Washington Post*. "We're not talking about the occasional extinction—we're talking about 1.25 million species. It's a massive number."

Massive Number of Problems

It did not take long, however, for Virginia state climatologist Patrick Michaels to identify major flaws in the study.

"There are a massive number of glaring problems" with the study, observed Michaels, who is a past president of the American Association of State Climatologists and was program chair for the Committee on Applied Climatology of the American Meteorological Society. "This is evidenced by the rapid turnaround for the manuscript, with acceptance in final form a mere five weeks after original submission. No one can clear revisions through 19 authors in that time unless there weren't many revisions suggested, or, if there were, they were ignored by the journal's editors in a rush to publication."

Added Michaels, "acrimonious debates about what should or should not be published about global warming are the rule rather than the exception, simply because papers are being published—on many sides of the issue—that can be shredded after only a cursory review. Unfortunately, the debate may have started with *Nature* itself.

"In 1996, conveniently a day before the U.N. conference that gave birth to the Kyoto Protocol, *Nature* published a paper purporting to match observed tempera-

ture with computer models of disastrous warming. It used weather balloon data from 1963 through 1987. The actual record, however, extended (then) from 1958 through 1995, and when all the data were used, the troubling numbers disappeared.

"Since that famous incident, people have been very leery of what major scientific journals publish on global warming. The Thomas extinction paper only throws more fuel on an already roaring inferno."

"You have to take the numbers with a grain of salt," agreed Lewis Ziska, a scientist with the U.S. Agricultural Research Service.

The analysis was based on "a lot of steady state assumptions that lead it to the most pessimistic forecast," added Daniel Botkin, a research professor for the department of ecology at the University of California at Santa Barbara.

Michaels pointed out many specific flaws with the article's methodology and basic assumptions. Observed Michaels:

- The article's best-case scenario projects warming of 0.8° C in the next 50 years and produces an extinction of roughly 20 percent of the sampled species. According to Michaels, surface temperatures already have risen this amount in the past 100 years ... but there is no evidence of massive climate-related extinctions.

- Global climate models, in general, predict a warmer surface and an increased rate of rainfall. That scenario leads to expansion of global rainforests, where the greatest number and most diversity of species exist. Trading virtually lifeless polar ice sheets for expanding tropical rainforests creates a future climate with a general character that is more, not less, hospitable for biodiversity.

- Temperatures have been bouncing up and down a lot more than 0.8°C during the past several hundred thousand years. The *Nature* article's published methodology implies there are large extinctions for each and every increment of change, whether the temperature goes up or down. Applying that method to all the temperature changes that have taken place would suggest just about every species on Earth should be extinct.

Stacking the Deck

"There are several reasons this claim should be laughed out of the court of public opinion," observed Iain Murray, a senior fellow at the Competitive Enterprise Institute. Murray pointed out the *Nature* article assumed changes in climate would lead to shrinking habitats, which would result in catastrophic die-offs of species. However, "The Earth is not shrinking. The reduction of one area of habitat does not mean that it is replaced by void. Other habitats expand.

"And so far," Murray

continued, "all the evidence we have points not to desertification or other changes to less-hospitable climates because of global warming.

Instead, the increase of carbon dioxide in the atmosphere seems to have led to a 6 percent increase in the amount of vegetation on the Earth. The Amazon rainforests accounted for 42 percent of the growth.

"To model only reductions in habitats and not expansions accounted for by global warming stacks the deck. The researchers created a model that dictated global warming will cause extinctions. Surprise, surprise! When they ran the model that's exactly the result they got."

Murray backed up his observations with some real-world examples. "The wholesale deforestation of the Eastern United States (prior to the twentieth century), for example, seems only to have caused the extinction of one species of bird. In



Puerto Rico, the island's loss of 99 percent of its forest cover caused the loss of 7 out of 60 species, but after the deforestation, the number of bird species on the island actually increased to 97. The species-area relationship (plotted as a linear function in 1859) seems to be a poor model on which to base extinction rates."

"What is surprising," summarized Michaels, "is that something with so many inconsistencies and unrealistic assumptions made it unscathed through the review process in such a prestigious journal as *Nature*. The politicization of scientific papers on global warming and the tendency of science journals to rush to judgment must end."

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Pombo Calls for Changes to Endangered Species Act

by James M. Taylor

House Resources Committee Chairman Richard Pombo (R-California) marked the 30th anniversary of the Endangered Species Act (ESA) by pledging to introduce incremental changes designed to facilitate cooperation between citizen-landowners and the federal government.

Citing the fact that in the past 30 years very few species have recovered to the point of removal from endangered status, Pombo noted private citizens need more federal cooperation and incentives to create and maintain habitat hospitable to endangered species.

"The current act and the way it's been implemented have been a failure in recovery of species and, at the same time, have caused a huge amount of conflict with private landowners," said Pombo. "I don't think anybody can look at the act and say it has been a success."

Realizing a sudden and complete overhaul of the ESA is politically impossible, Pombo pledged to incrementally address some of the law's most self-defeating provisions.

"In the past, I've tried to come up with an overall reauthorization bill, and it's too difficult because it covers so many different things," he said. "It's just a lot easier and a lot more practical to break it down."

ESA an "Abject Failure"

The importance of ESA reform is confirmed by many endangered species analysts.

"After three decades, and billions of dollars of spending by private parties, as well as local, state, and federal governments to comply with the Act, only 15 species out of the 1,853 species listed as endangered or threatened have been recovered," noted Daniel Simmons, a research fellow at the Mercatus Center. "Clearly, the Act is due for a makeover."

"For all the ESA's force, it is surprisingly ineffective," observed Case Western Reserve University Assistant Professor of Law Jonathan Adler. "Indeed, it may be the greatest failure of all federal environmental laws. The purpose of the ESA is to save species from the brink of extinction. ... The ultimate measure of the ESA's success is the extent to which it is effective at recovering species from endangered status."

"By this measure," continued Adler, "the law is an abject failure. In the past 30 years, fewer than 30 of the over 1,000 domestic species have been taken off the endangered and threatened species lists. Of these, more have been delisted by reason of extinction than because of recovery due to regulatory protection."

Scientific studies support those observations. A study

published in the December 2003 issue of *Conservation Biology* reports, "listing the Preble's [Jumping Mouse] under the ESA does not appear to have enhanced its survival prospects on private land." The study found that after the mouse was listed as endangered, citizens were as likely to degrade any mouse habitat as they were to improve it. The reason? If federal officials found the Preble's mouse on their land, the property would be rendered untouchable and economically worthless. According to the study, most citizens were so fearful of federal interference that they refused to allow any biological surveys of their land that might reveal resident mouse populations.

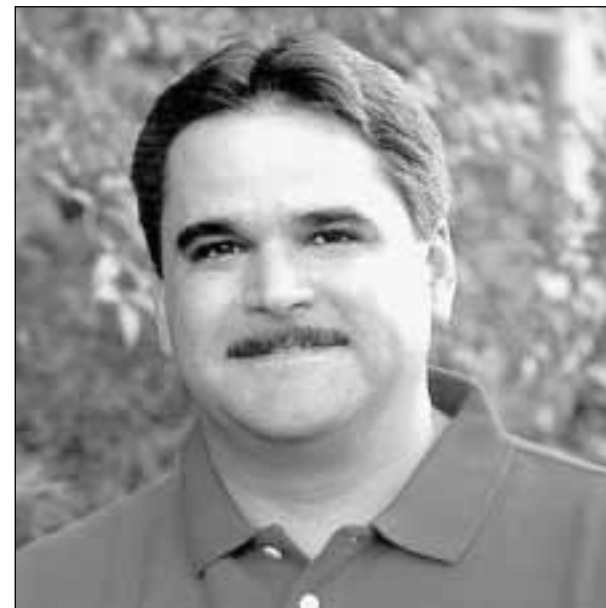
Another study, conducted by Dean Lueck of Montana State University and Jeffrey A. Michael of Towson University, examined endangered red-cockaded woodpecker populations on more than 1,000 individual forest plots. They concluded the woodpecker's "habitat has been reduced on private land because of the ESA." According to the study, landowners purposely cleared trees on their land before the trees could reach sufficient maturity to support the endangered birds. If birds migrated to their lands, landowners realized they would lose virtually all land-use rights to the properties.

Correcting Wrong Incentives

"Why is the ESA so bad at protecting endangered species?" asked Simmons. "The Act provides the wrong incentives to landowners. If an endangered or threatened species takes up residence on someone's land, the landowner will frequently view it as a liability, since the regulations that protect the species limit the landowner's land use options. These regulations do not encourage landowners to conserve the endangered species, but rather they punish landowners for creating the very habitat that endangered species need to survive."

"Instead of punishing landowners for creating endangered species-friendly habitat," Simmons said, "the ESA should reward and encourage landowners for their conservation efforts. Since 80 percent of threatened and endangered species live on privately owned land, our only hope to improve and recover many species will depend on conservation efforts by private citizens."

"In Riverside County, California," added Adler, "the ESA even prevented private landowners from clearing firebreaks on their own land lest they disturb the habitat of the Stephens' kangaroo rat. In the ensuing fires, several homes burned, as did much of the rat habitat the law was supposed to protect. In the simplest terms, the ESA turns ownership of endangered species habitat



House Resources Committee Chairman
Richard Pombo (R-California)

from an asset into a liability."

"The incentives are wrong here," summarized Sam Hamilton, former Fish and Wildlife Service administrator of Texas. "If I have a rare metal on my property, its value goes up. But if a rare bird occupies the land, its value disappears."

The Pombo legislation would add "sound science" requirements demanding peer-reviewed justification for listing new species. The new approach would also attempt to remove penalties for creating and maintaining endangered species habitat, replacing them with incentives and cooperative relations with federal agencies. His approach is being applauded by ESA analysts.

"The problem is not ESA implementation, but the law itself," said Adler. "So long as federal law effectively punishes property owners for owning and conserving species habitat, conservation efforts will flounder. ...

"When strict rules are imposed on private landowners," Adler continued, "species conservation regulations undermine the very goals they aim to advance. A more promising approach would seek to work with landowners rather than against them."

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"Holistic Medicine," Not Global Warming, Linked to Herbal Extinctions

by James M. Taylor

A \$20 billion worldwide market for "natural" herbal medicines is threatening up to 10,000 plants with extinction, according to a report published January 4 by *New Scientist* magazine.

"The multimillion-pound boom [the British pound equals roughly one dollar] in herbal medicine is threatening to wipe out up to a fifth of the plant species on which it depends, wrecking their natural habitats and jeopardizing the health of millions of people in developing countries," reported the *New Scientist*.

"Given the scale of the threat, this is alarming," said Martin Harper of the conservation group Plantlife International.

The *New Scientist* article is based on a study scheduled for publication later this year by the World Wildlife Federation. WWF reports a 10 percent increase in worldwide herbal remedy use for each and

every year of the past decade.

"It's an extremely serious problem," said the WWF's Alan Hamilton, lead author of the soon-to-be published study.

"With demand and commercialization growing fast, the future of the wild plants which have helped most of humanity for centuries is now more uncertain than it has ever been," said Harper.

Herbal medicines are often purchased by environmentalists who spurn over-the-counter or prescription drugs, because they are chemicals, and modern technology generally. The idea that the habits of anti-modern environmentalists might be causing widespread extinctions struck some observers as ironic.

Just as ironically, corporations and tropical rainforest farmers—two groups frequently criticized by radical environmentalists—may provide the solution to the extinctions feared by the *New Scientist*.

With demand for herbal plant species apparently exceeding the supplies found in nature, farmers and corporations are poised to act according to free-market incentives and begin actively cultivating the endangered species.

"Some herbal medicine species are very rare, and due to increasing demand in alternative treatment they are getting closer to extinction," notes the NatureProducts.net Web site, an online store for herbal remedies. "Our answer to the threat of extinction of rare species is to domesticate them and contract grow them ..."

That's a solution many have proposed to help address the threatened extinction of animals in the wild.

"Apparently, the threat stems from the fact that these herbal remedies exist in a 'tragedy of the commons,'" explained Jane Shaw, a senior associate with the Bozeman, Montana-based Property & Environment

Research Center (PERC). "People are simply taking the plants wherever they grow and not replenishing them. Farming is indeed a solution because the owners of the crops will make sure the plants continue to thrive. Some form of private ownership is the way to save these and other species, including animals, from extinction."

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INTERNET INFO

More information on private solutions to species protection and other environment issues can be found on the Web site of the Property & Environment Research Center at <http://www.perc.org>.

Wyoming, Feds Clash on Gray Wolf Delisting

“Dual classification” delays return to state control

by James M. Taylor

An anticipated delisting of gray wolves from Endangered Species Act (ESA) protection was put on hold January 12 after the U.S. Fish and Wildlife Service (FWS) determined Wyoming's proposal to manage its gray wolf population did not ensure maintenance of current population numbers.

The FWS determination derailed the plans of three states to assume the lead role in managing gray wolf populations. Although FWS approved wolf management plans submitted by Montana and Idaho, the ESA designation will remain in place until Wyoming also gets federal approval for its plan.

“Delisting cannot be proposed at this time due to some significant concerns about portions of Wyoming's state law and wolf management plan,” wrote FWS Director Steve Williams in a letter to Terry Cleveland, director of the Wyoming Game and Fish Department.

Of most concern to FWS is Wyoming's proposal to establish a “dual classification,” whereby some wolves would be protected from humans while others would be listed as predators

subject to hunting. FWS was unconvinced dual classification would sufficiently notify citizens as to which wolves are protected and which subject to hunting. FWS feared that as a result, many “protected” wolves would be mistakenly killed, and thus the plan would not “provide sufficient management controls to assure the service that the wolf population will remain above recovery levels.”

Thirty years after being added to the Endangered Species list and nine years after being reintroduced to the Northern Rocky Mountains, the gray wolf population has grown to roughly 760 animals. In 2003 FWS announced that this number, coupled with the identification of 30 breeding pairs in Montana, Idaho, and Wyoming, warranted delisting the wolf if the three states proposed management plans that would ensure maintenance of wolf populations.

“We're all tied together on this,” said Jeff Hagener, director of the Montana Department of Fish, Wildlife and Parks.

“We're preparing to implement state management as soon as that's feasible and logical,” agreed Steve Nadeau of the



Idaho Fish and Game Department.

Montana and Idaho officials have offered their assistance in helping Wyoming draft and implement a management plan acceptable to FWS. With the Wyoming legislature currently committed to addressing budget issues, however, it may take six months to a year before state officials take up a revised plan.

Governor, State Officials Disappointed

Political fallout from the FWS determination was quickly apparent. Obviously disappointed at the FWS determination, Wyoming's Democratic governor, Dave Freudenthal, blasted the FWS and charged election-year politics were to blame.

“They could have said last year that this statute was fundamentally flawed,”

WOLF p. 7

Sierra Club Head Warns Group Is Attracting “Racists”

by James M. Taylor

This spring, the Sierra Club will hold elections to fill five open seats on its 15-member board of directors. What should be a celebration of democratic principles has instead turned into a divisive and potentially ugly situation.

“There are racists coming into the Sierra Club and trying to influence the election,” warned Sierra Club Executive Director Carl Pope in a January 22 telephone interview with reporters.

Offering the media a rare glimpse into the group's internal politics, Pope said a sizable number of Sierra Club members believe the organization should include immigration controls as one of its core principles. Already, according to the *Tampa Tribune*, three of 10 sitting directors hold that view. If proponents of immigration controls can organize sufficient support in the upcoming elections, they can take majority control of the board of directors.

Pope expressed dismay that immigrant-bashing from Sierra Club members has been quoted on racist Internet sites. He also warned the organization may be losing its central focus on environmental issues.

“It's a country of free speech and we can't control what people are trying to do with anything we're trying to do,”

countered Ben Zuckerman, a University of California at Los Angeles professor and member of the Sierra Club's board.

The spirit of the insurgent immigrant-control movement is symbolized by Sierra Club board member Paul Watson, a cofounder of Greenpeace and a vegetarian who is aggressively pushing an animal rights platform for the Sierra Club. Watson's support of an immigration-control platform is viewed by many in the Sierra Club as a predictable step in leading the organization away from its traditional environmentalist vision.

Many rank-and-file Sierra Club members have expressed deep concern at the rift developing within the national organization. “We've got enough on our platter at this point without taking on these other special interests,” said Lynn McGarvey, chairwoman of the organization's Tampa, Florida, branch.

“I'm having trouble here in Tampa just stretching myself to cover the issues we have here. To add animal righters and aliens is just too much.”

However, advocates of immigration control and other non-traditional platforms have found support from many rank-and-file members. Greg Kalmbach, chairman of the organization's Florida chapter, said he believes population growth is harming the environment.

Kalmbach believes the Sierra Club should support family planning and other population stability programs, perhaps including immigration controls. He blamed Pope for taking the internal rift public and for playing the race card.

“He feels this is a real danger to the Sierra Club and as executive director, he needs to get out there and ward off the damage,” Kalmbach said. “But I think it's really inappropriate for him to meddle in an election.”

Lesley Blackner, a former lawyer for the organization, scoffed at Pope's criticisms of the anti-immigrant agenda. “They've got a population policy that tells people they should have only two children, and they advocate facilitating birth control, and promoting family planning in the Third World. But if they don't tie it to immigration, they just have their heads in the sand.”

“It's an important issue to discuss,” responded Pope, “but we just don't think it's an issue that can be resolved on the basis of environmental values. Our members are deeply divided on it so we said let's work on things we agree on.”

Neil Hrab, a senior fellow at the Competitive Enterprise Institute, observed that the growing anti-immigration movement is a predictable development, considering the Sierra Club's

core values.

Said Hrab, “Both the Sierra Club's present leadership and Sierrans for U.S. Population Stabilization's leaders share a basic pessimism about the future. They are neo-Malthusians. That is, they are all unwitting followers of Robert Malthus, an 18th century British thinker who hypothesized that population growth will always overtake mankind's ability to find adequate food, water, and other resources to sustain the resulting extra population. Malthus did not believe mankind could innovate its way out of this predicament—our species would always be stalked by starvation.

“Whatever differences they may have when it comes to immigration,” Hrab continued, “there doesn't appear to be even a dime's difference between the two sides when you stack up their neo-Malthusian credentials. From this perspective, whether [immigration opponents] end up running Sierra, or whether the current board stays in charge, will make little difference to the Club's overall policy direction. The Club will continue to spread a neo-Malthusian attitude towards the supposed limits of technology.”

James M. Taylor is managing editor of Environment & Climate News. His email address is taylor@heartland.org.

Wolf

Continued from page 6

Freudenthal said. "I think it's political in that [the Bush administration], as a matter of national election policy, decided to, shall we say, throw Wyoming to the wolves, because they want to have environmental support."

Interior Department official Paul Hoffman disputed Freudenthal's allegations. "We want to see wolf management returned to the states" as soon as possible, he said.

FWS director Williams said Freudenthal and the state legislature should not have been surprised by the agency's determination. Although the dual classification proposal had attracted bipartisan support among Wyoming lawmakers, Williams told the state's Game and Fish Commission in 2002 that the approach would likely be unacceptable to FWS. Also, FWS wolf coordinator Ed Bangs told state officials in July 2003 that dual classification "could derail and will certainly prolong" efforts to delist the wolf.

"I wasn't shocked, I guess, at the [FWS determination], but I was disappointed," said Bill Witchers, deputy director of the Wyoming Game and Fish Department.

Environmental activist groups were pleased by the Bush administration's decision. "I am pleasantly surprised and encouraged that the service doesn't think open season on wolves is a decent management plan," said Nina Fascione of Defenders of Wildlife.

Residents Urge Pragmatism

"Wyoming's plan is pragmatic," said Montana resident Dave Skinner. "It accepts the presence of wolves in national parks and in wilderness areas, taking steps to keep wolves where they belong while, most importantly, keeping wolves from spreading to areas they don't belong."

Added Skinner, "What will happen if packs get established in the Park Range or the Snowies and start munching their way through Colorado's elk herds, or Moffat County's mule deer? What will happen if wolves get into the Laramies and start raiding the game herds and ranches on either side? Ranchers and outfitters around Yellowstone are already kissing their futures goodbye. I know at least one northwest Montana rancher who gave up because of wolves."

"We should keep (incentives and agreements) as a viable option and also at the same time maybe tweak the legislation so that it clearly identifies those options and sets parameters for them so they can't be challenged," said Jim Magagna, executive vice president of the Wyoming Stock Growers Association.

"We don't think Wyoming lawmakers wanted to keep wolves on the [ESA] list, but it's what they did," stated a Great Falls Tribune house editorial. "And that shot that hit them in their own figurative foot ricocheted and took a chunk out of their neighbors' feet too. We want to see wolves delisted."

James M. Taylor is managing editor of Environment & Climate News. His email address is taylor@heartland.org.

Yellowstone

Continued from page 1

if the injunction does not issue," Brimmer concluded. "This harm includes the significant financial loss that will be sustained by businesses and concessionaires, the loss of goodwill, and the potential that some businesses may go bankrupt if the injunction is not issued. These are losses that cannot be compensated if Wyoming and ISMA Plaintiffs prevail on the merits of the case."

Brimmer issued a temporary injunction that prevents the National Park Service (NPS) from enforcing a ban on snowmobiles in Yellowstone and Grand Teton National Parks. He further required NPS to issue temporary rules for the 2004 season "that will be fair and equitable to snowmobile owners and users, to the business community, and to the environmental interests, ... and to all other interests public and private, of which the NPS is aware."

"This is a great victory for all in the snowmobile community who have fought at every step of the process for access at Yellowstone," said Jack Welch, president of the Blue Ribbon Coalition. "We continue to believe the Park Service was correct in allowing regulated snowmobile access to these special destinations, and this decision gives us some hope that our access to Yellowstone Park will be preserved."

Dueling Decisions

Four years ago, Brimmer was assigned to decide a legal challenge against a Clinton administration proposal to ban snowmobiles in the two national parks. Local citizens and recreationists pointed out that access to the snowbound parks during the winter months was virtually impossible without snowmobiles, and that a ban on snowmobiles would devastate local economies.

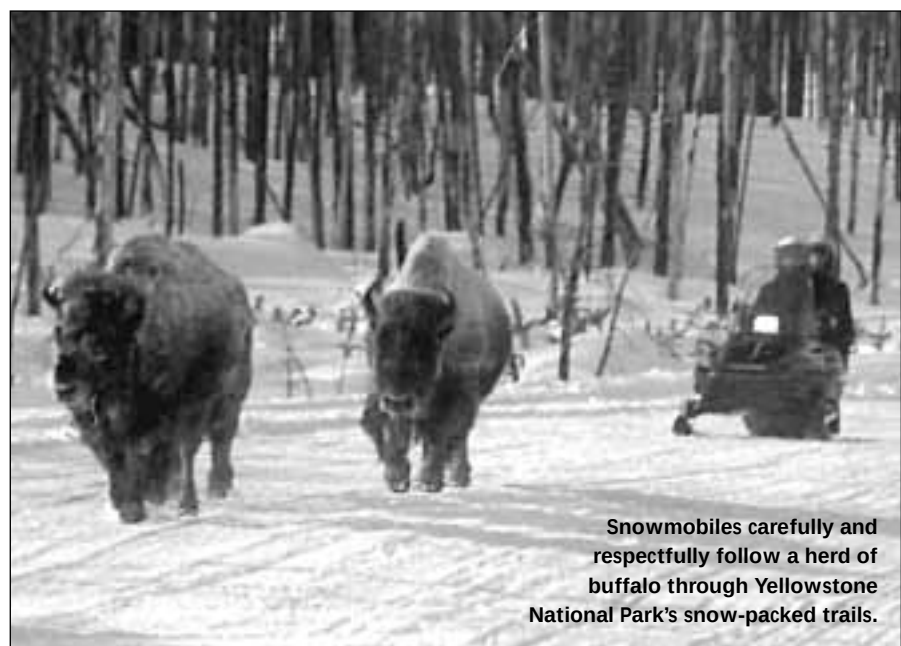
The lawsuit became moot, however, after the newly elected Bush administration agreed to a settlement that permitted a limited number of snowmobiles to continue using the parks in the winter. Key to the Bush administration's decision was a mandate that snowmobiles use the best available technology to reduce air and noise pollution.

On December 16, 2003, U.S. District Judge Emmet Sullivan in Washington, DC outraged local citizens by negating the Bush plan and banning snowmobiles from the parks for the first time in history. Sullivan justified his decision by asserting NPS officials did not follow procedural rules by failing to adequately explain why the agency reversed the proposed Clinton administration rule.

In addition to throwing out the limited snowmobile plan for Yellowstone and Grand Teton, Sullivan ordered the NPS to respond to a petition by the Bluewater Network seeking to ban snowmobiles from all national parks, national recreation areas, and national monuments.

Not Based on Sound Science

In reviewing and reversing Sullivan's decision, Brimmer ruled, among other



Snowmobiles carefully and respectfully follow a herd of buffalo through Yellowstone National Park's snow-packed trails.

things, "that the record established a prejudged political conclusion to ban snowmobiles in the Parks. ... The prejudged political conclusion ... and the lack of a hard look at the environmental impacts of snowcoaches in the Parks, leads to a substantial likelihood [that the snowmobile ban] could be ruled as arbitrary and capricious after a full review of the record."

Dr. Lori Fussell, an environmental engineer who has been studying snowmobile emissions for more than 10 years, agreed. In a recent television interview, she noted, "I am concerned that the [December] decision to phase out snowmobiles was based on a value judgment rather than a scientifically based need to eliminate snowmobiles to prevent environmental degradation to Yellowstone National Park."

"The technology exists to reduce snowmobile emissions to levels that would allow them to operate in Yellowstone National Park in limited numbers without causing degradation of park resources or significant human exposure to pollution," continued Fussell, who is cofounder of the SAE Clean Snowmobile Challenge. "Therefore, I believe that opponents of snowmobiles in Yellowstone National Park are either misinformed or have issues with snowmobiles other than the pollution levels."

"Snowmobiles account for less than 4 percent of annual vehicular traffic in the Park," noted the ISMA. "ISMA snowmobile use of groomed portions of Yellowstone National Park's road system began 40 years ago. The snowmobiles are restricted to the same road system used in the spring, summer, and fall by more than 1.5 million automobiles, buses, SUVs, trucks, recreational vehicles, and motorcycles."

Snowmobile emissions account for only a small fraction of mobile-source emissions in the national parks, reported the ISMA, which calculates summer recreational vehicles (RVs) emit more than eight times more NOx than snowmobiles and newer-technology "snowcoaches." Snowmobiles and snowcoaches account for less than 2 percent of all NOx emissions from vehicles in the Parks, the ISMA reported, and less than 6 percent of particulate matter emissions from mobile sources.

"If Park resources are being impaired by vehicle emissions," concluded the ISMA, "the culprit is not snowmobiles."

Legal Challenges Ahead

"The people that are suffering under the move toward banning snowmobiles are the small-business owners in and around the parks," Gov. Dave Freudenthal said in a statement. "They relied upon one rule only to find out the day before this season opened that they would be forced to operate under a much stricter rule, which has already cost the state dearly in terms of impacts on its tourism industry."

Brimmer's ruling, which specified only that NPS develop rules for the 2004 snowmobile season, leaves unaddressed the long-term status of snowmobiles in the National Parks. But the U.S. Department of Justice said on February 11 the administration would not challenge Brimmer's decision. And Brimmer himself has made clear his position that local authorities ought to decide such matters.

"I don't see any reason why a judge 2,000 miles from here ought to be deciding things that affect the people of Wyoming," said Brimmer during hearings regarding the resuscitated snowmobile case.

The sharpest exchange during the hearings occurred when Doug Honnold, an attorney for Earthjustice representing several environmental groups in the case, argued snowmobile proponents were venue-shopping by seeking Brimmer's intervention rather than arguing in front of Sullivan. "Kind of like you folks did," responded Brimmer. "You did an end run to Washington."

"We will enjoy this new chapter in the Yellowstone saga, but realize it may not be the last and will renew our efforts to maintain reasonable access to the Parks," noted the Blue Ribbon Coalition's Welch.

"We support the use of cleaner, quieter machines in the park, in reasonable numbers, and Brimmer made a wise decision," said Bill Dart, the Coalition's public lands director.

James M. Taylor is managing editor of Environment & Climate News. His email address is taylor@heartland.org.

HOG FARMS

Hog Farms No Threat to North Carolina Water Quality

by Dennis T. Avery and Alex Avery

Although there have always been hog farmers in North Carolina, the industry was fairly small until the mid-1980s. At that time, a major new hog slaughter plant opened in the state, and dozens of new confinement hog farms were set up to take advantage of eastern North Carolina's low employment levels. As a result, hog farming in eastern North Carolina took off in the late 1980s and early '90s.

The core of this hog farm expansion was located in Sampson and Duplin counties, two adjoining counties drained by two rivers—the Black and the Northeast Cape Fear. Between 1985 and 1995, the hog population in these two coastal watersheds increased tenfold, from 500,000 to 5.5 million animals. By 1997, this area accounted for 10 percent of the total U.S. swine inventory. (The balance of the state's hog population, consisting of some two million animals, is scattered throughout the coastal plain.)

The rapid expansion of the hog population, the growing number of larger, integrated farms, and the central role of corporations alarmed environmentalists and social activists, who generally do not like either large corporations or large, intensive farming operations.

The controversy began in February 1995, when the *Raleigh News & Observer* ran a harsh, five-article series titled, "Boss Hog: North Carolina's Pork Revolution." The series detailed the explosive growth of the industry and questioned the environmental and social impacts of intensive hog production.

The top concern cited in the articles was the "9.5 million tons" of hog waste coming from the "megapolis of seven million animals that live in metal confinement barns" in eastern North Carolina. The articles charged hog waste was polluting both groundwater and the state's rivers and streams, harming the environment and posing a potential health threat to nearby residents. The "Boss Hog" series netted the *News & Observer* the 1996 Pulitzer Prize for Public Service Journalism.

No Harm to Water Quality

Yet there is still no evidence whatsoever that water quality has gotten worse in North Carolina. As researchers at Duke University's Nicholas School of the Environment noted in research published in 2000:

"Eutrophication [of the Neuse River estuary] is believed to have worsened in recent years. ... However, our results indicate that while nitrogen concentrations have not changed significantly, *they may have declined slightly overall in the lower river and estuary in the last 22 years.* Additionally, phosphorus concentrations have dropped considerably at all locations since the mid 1980s. ['Seasonal and long-term nutrient trend decomposition along a spatial gradient in the Neuse River watershed,' *Environmental Science & Technology* 34, 2000. Italics added.]

The Duke researchers speculated it was the *improved* water quality—the lower levels of phosphorus—that changed the critical ratio of nitrogen-to-phosphorus, leading to an increase in algal blooms in the Neuse estuary. This created the false impression that the water quality was declining. All too predictably, not a single North Carolina newspaper reported on this research or its implications in the debate over the environmental effects of hog farming.

There is, in fact, strong evidence that hog farms haven't harmed water quality in the region. In early 2003, at the request of the Cape Fear River Assembly, the authors of this article set out to perform an extensive review of the historical water quality data in the Black and Northeast Cape Fear rivers (home to roughly 80 percent of the state's hogs) for the period before and after the hog farm expansion.

When we called the Water Quality Division at the North Carolina Department of Environment and Natural Resources (DENR) to obtain the data, the director declined to release it to us. He claimed an analysis of that data already had been conducted as part of the DENR's five-year environmental assessment published in 1999.

But the DENR's report omitted water quality data for the Black and Northeast Cape Fear rivers completely. Instead,

the report focused on "biological indicators" of aquatic health (such as inventories of fish) that implied a slight worsening of river conditions since the previous environmental assessment in 1994.

After major flooding and hurricanes in 1995-96, North Carolina received federal grants to clear fallen trees and woody debris clogging rivers and streams, to prevent future flooding. The DENR report admitted this factor made it impossible to blame hog farms for the decreases in biological indicators in the regional waters:

"Zealous pursuit of this goal often totally cleared all woody material from the stream, *material that is a critical habitat for both fish and invertebrates.* For some streams, heavy machinery was used along the banks. ... It is difficult to separate out the effects of de-snagging in these streams from the potential impact of increased numbers of hog farms within the same area." [Italics added.]

Data Exonerate Hog Farms

The 1999 DENR report included water quality data for other rivers within the Cape Fear basin ... so why did the agency omit only the data for the two rivers draining the intensive hog farming areas? Why did the DENR instead rely on a flawed proxy of water quality? When we insisted on examining the data ourselves, the head of the Division of Water Quality at DENR refused to provide it. It wasn't until legal action was threatened that we were provided the data.

The data clearly show the water quality within and downstream of the hog farming areas is as good now as it was before the hog industry expansion. Despite a tenfold increase in the hog populations, there has been no increase in nutrient concentrations, no reduction in dissolved oxygen levels, and no increase in sediment loads.

Incredibly, during nearly a decade of intense, acrimonious debate between environmental activists and hog farmers—whipped into a frenzy by articles like the *News & Observer's* "Boss Hog" series—the DENR suppressed its own water quality data and failed to inform the public and policymakers of the real conditions of the

rivers and streams in question.

In this way, the government of North Carolina effectively stole the great economic opportunity of hog farm expansion from some of its poorest citizens.

Bad News Sells

Our own report was not totally ignored by the media. *The Wilmington Star-News* ran a single article on the study, published before our report was even written. The headline to the story tells you everything you need to know about press coverage of the controversy: "Defense of Hog Farms Full of Holes, Scientist Says."

The public is too often given only one-sided, simplistic, pessimistic versions of environmental realities by the news media, and even by government agencies and researchers.

Journalism has never been more important to our society ... and, perhaps, never less adequate.

Dennis T. Avery is director, and Alex Avery is director of research and education, of the Hudson Institute's Center for Global Food Issues. A longer version of this article originally appeared in the Fall 2003 issue of *American Outlook*, a publication of the Hudson Institute.

INTERNET INFO

See "North Carolina Hog Farming & Water Quality: Time Series Analysis Fails to Reveal Significant Impacts," written by Alex Avery and released by the Hudson Institute. The 24-page report is available on the Web site of the Hudson Institute's Center for Global Food Issues at <http://www.cgfi.org/pdf/NCHogImpactReport.pdf>.

A three-part series on hog farming appeared in the December 2003, January 2004, and February 2004 issues of *Environment & Climate News*, available on The Heartland Institute's Web site at <http://www.heartland.org/Publications.cfm?pbld=1>.

Mandatory Recycling Wastes Resources, Harms Environment

by Daniel K. Benjamin

In mid-December 2003, the Seattle City Council decided to make curbside recycling mandatory. The measure, which goes into effect in January 2005, is a misguided step that will burden taxpayers, antagonize residents, and waste resources.

As an economist who has been studying recycling for nearly 15 years, I long ago learned that the desire for curbside recycling is based mostly on misconceptions. Here are some of the most serious errors.

Myth: We are running out of room for trash.

In the 1980s, the Environmental Protection Agency launched this myth with a study showing the number of landfills in the United States was falling. True, but the landfills were getting bigger, and the total capacity was increasing! Today we have 18 years' worth of landfill capacity nationwide—even if no other landfills are built. Seattle sends its trash to Gillam County, Oregon. Additional landfills can be added there when needed.

Myth: Our garbage is dangerous.

EPA (known for being extra-cautious) says a modern landfill could cause one

cancer-related death every 50 years. To put this in perspective, cancer kills more than 560,000 people every year in the United States. Fears of landfills are based largely on confusion with hazardous industrial waste disposal sites.

Myth: Packaging is our problem.

Actually, modern packaging reduces rubbish. American households produce one-third less trash than do Mexican households. Turning a chicken into a meal produces waste, but when chickens are processed and packaged commercially, the byproducts become marketable products such as pet food—something possible only if packaging is used.

Myth: Recycling always protects the environment.

Recycling is a manufacturing process, so it has environmental impacts. An EPA study found more toxic materials in recycling paper processes than in virgin paper manufacturing. And, as one expert puts it, adding curbside recycling is "like moving from once-a-week garbage collection to twice a week." That means more trucks, with their extra air pollution.

Myth: Recycling saves irreplaceable resources.

Available stocks of most natural

resources are actually growing rather than shrinking. How do we know? Market prices measure natural resource scarcity. Falling prices indicate a material is becoming more plentiful, and that is exactly what continues to happen for almost all raw materials. Resources such as timber are renewable, and non-renewable resources are more available than ever. They go much farther than they used to, and some have been replaced by

"[M]andatory recycling wastes resources—and Seattle's latest political action misleads the public into supporting such wastefulness."

resources that are even more plentiful. Skyscrapers and bridges use less steel than in the past; optical fiber (made from sand) carries 625 times more calls than the copper wire of 20 years ago. The list goes on.

Myth: Recycling must be mandatory.

Private-sector recycling is as old as trash itself. Scavenging may, in fact, be the old-

est profession. Rag dealers were a constant of American life until they were driven out of business by a federal labeling law. Long before state or local governments had even contemplated recycling, manufacturers of steel and aluminum were recycling manufacturing scraps, and some even operated post-consumer drop-off centers.

Myth: Recycling saves resources.

Not necessarily. Using less of one resource often means using more of other resources. When the total costs of recycling and disposal are compared, on average curbside recycling is 35 to 55 percent more costly nationwide than conventional disposal. In Seattle, the city wastes resources by overcharging for trash pickup and under-pricing recycling pickup.

Recycling is a productive part of the market system. Informed, voluntary recycling conserves resources. In sharp contrast, mandatory recycling wastes resources—and Seattle's latest political action misleads the public into supporting such wastefulness.

Daniel K. Benjamin is a senior associate of PERC, the Property and Environment Research Center, in Bozeman, Montana, and a professor of economics at Clemson University.

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- ★ South Carolina State Representative Joe Neal will show how smart growth hurts minorities
- ★ Kansas City Councilwoman Sandra McFadden-Weaver will tell how light rail hurts low-income people
- ★ CEI President Fred Smith will help people use value-based communications
- ★ Kay McClanahan of South Carolina Property Rights Watch will show how smart growth hurts rural landowners

Outline of the Agenda

- Friday, 8:30 am–4:30 pm: Tour of Portland-area light rail and smart-growth projects;
- Friday, 7:00 pm–9:00 pm: U.S. Representative and smart-growth advocate Earl Blumenauer, free-market advocate John Charles of the Cascade Policy Institute, and no-growth advocate Andy Kerr will present their visions for Portland
- Saturday, 8:00 am–5:00 pm: Lectures & workshops
- Sunday, 8:00 am–1:00 pm: Lectures & workshops
- Sunday, 1:00 pm–3:00 pm: First membership meeting of the American Dream Coalition.

To learn more information about the *Preserving the American Dream* conference, see americandreamcoalition.org. You can make reservations at the Airport Shilo Inn at special conference rates by calling 800-222-2244.

Registration Form

- ☐ Yes! Sign me up to attend *Preserving the American Dream*. My registration fee of \$175 (\$145 student/low-income) is ☐ enclosed ☐ will be paid through PayPal (american@americandreamcoalition.org).
- ☐ Also sign me up for the April 16 tour of Portland-area smart-growth projects (\$25).
- ☐ I would like to join the American Dream Coalition (\$25) and make an additional contribution of \$_____.

Name _____

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Mail to American Dream Coalition,
P. O. Box 1590, Bandon, Oregon 97411

Sound Science for the [Overly] Concerned Public

Easterbrook's latest book is fair, balanced, and thought-provoking

by Jay Lehr, Ph.D.



There have been some excellent environmental science books written in recent years. (See sidebar.) Gregg Easterbrook has now stood on the shoulders of these authors with his brilliantly informative work, *The Progress Paradox*.

While I have found Easterbrook's past writings to be aligned more with the pro-government left than with free minds and markets, this book is definitely fair and balanced, with philosophic inputs that are wonderfully thought-provoking. Were it to be required reading around the world, billions of dollars would no longer be spent on foolish regulatory programs. Perhaps as much could be saved on psychologists trying to lift people from depression, and millions of lives could be saved as we redirect our time, energy, and funds to concerns that have real, rather than hypothetical, effects on people worldwide.

I have often disagreed with Easterbrook on many issues and believe he continues to exhibit unwarranted concern over greenhouse gases and global warming, but nothing is perfect. *The Progress Paradox*, however, comes close.

As many readers of *Environment & Climate News* will recall, I review many more books that make travesties of science than those that contribute significantly to it. This is clearly among the latter. *The Progress Paradox* ranks among the 10 most important books I have read in the past 20 years.

Easterbrook recounts, in smooth journalistic fashion, nearly all that is right with the world with respect to air, water, soil health, life expectancy, crime, education, and economic growth, while cogently explaining why good news rarely attracts attention and precisely who is to blame. I quote from his work below.

Health

"Most of the rise in health care spending stems not from the prices of medical goods and services, most of which have been declining in real dollar terms, but from increased utilization. The population is aging, and the aging require more care than the young."

"Public health is improving by nearly every measure, including rising longevity and falling rates of most diseases; even many forms of cancer are in decline."

"At the beginning of the twentieth century, the average American life expectancy at birth was forty-one years. ... [B]y the beginning of the twenty-first century, the typical American life expectancy at birth had risen to seventy-seven years."

"By the year 2000, U.S. incidence of heart

disease was 60 percent lower, adjusted for population increase, than in 1950; Incidence of stroke deaths fell 70 percent in the same period."

Environment

"Doomsday claims to the contrary, environmental trends are nearly all positive, with all forms of pollution except greenhouse gases in steady decline in the United States and the European Union."

"Twenty-five years ago, only one-third of America's lakes and rivers were safe for fishing and swimming; today two-thirds are, and the proportion continues to rise."

"Boston Harbor, whose filth was ridiculed in a political commercial that was pivotal to the 1988 presidential election, now has water so clear that revelers do ceremonial New Year's Day dips."

"Since 1970 smog has declined by a third, even as the number of cars has nearly doubled and vehicle-miles traveled have increased by 43 percent."

"Acid rain has declined by 67 percent, even though the United States now burns almost twice as much coal annually to produce electric power."

"During the 2000 presidential election much was made of the fact that Houston had taken over Los Angeles as the nation's 'smog capital.' Hardly anyone added that this happened during a period when Houston smog diminished."

"Rocky Mountain Arsenal, outside Denver, where nerve gas was once made and a location regularly described ... as 'the most toxic place on earth' has been a National Wildlife Preserve for ten years: eagles and other biologically delicate species now thrive there."

Agriculture

"Modern high-yield farming is a marvel, filling the granaries of the Western nations with an annual abundance of fruits, vegetables, and cereals at prices generally lower, in inflation-adjusted terms, than in the 1950s."

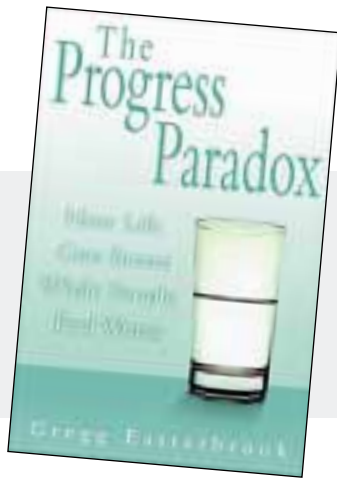
"Modern ranching provides equally impressive quantities of excellent high-protein beef, pork, and poultry, at affordable prices, plus affordable aqua-farmed salmon and other fish."

"Genetic engineering of crop plants promises foods grown with fewer chemicals, containing less fat and more protein, the elimination of allergens—that is, peanuts to which no one is allergic."

"Crop failures have become unheard-of,

The Progress Paradox: How Life Gets Better While People Feel Worse

by Gregg Easterbrook
(Random House Publishers, 2003;
376 pages, \$24.95, ISBN: 0679463038)



while erosion and soil loss to wind have declined—the Dust Bowl, it is important to recall, occurred before the widespread adoption of high yield farming, which has since prevented any dust-bowl effects, even during drought years.”

“Genetic engineering of crops appears safe, with many studies including by the National Research Council, an affiliate of the National Academy of Sciences, having found no dangers in genetically modified plants.”

Why We Don't Hear the Good News

The foregoing litany of feel-good data, presented by Easterbrook with solid supporting references, is but the tip of the informative iceberg you will find between the covers of this book.

But what is far more important is that Easterbrook understands why the public is not generally told these things, and he explains it with amazing clarity. His most telling examples deal with distorted fundraising rants from environmental advocacy groups and political parties as well as the media's inviolable rule that says, “if it bleeds it leads.” Good news, if printed at all, can be found at the bottom of page 18.

“[M]ost contemporary fund-raising turns on high-decibel assertions that everything's going to hell,” writes Easterbrook. “It is not, but because fund-raisers have grown so adept at targeted marketing, their contaminated messages surround us nonetheless.”

“Environmental fund-raising is telling as an example of the money being at the extremes. The steady environmental improvement in the United States should be a subject of national pride—there ought to be crowing about how activists, government officials, business managers, and average citizens worked together to overcome an ‘insoluble’ problem without penalty to national prosperity. ... But there is no money to be made in harmony. Environmentalists and Democratic candidates can raise funds by crying environmental doomsday, so it is doomsday they cry.”

If you also have wondered why so many prominent people in entertainment and of wealth appear always to

be wringing their hands over one desperate crisis or another, Easterbrook says there appears to be a conditioned desire felt by the privileged to look with disdain at the societies that permit the favored lives they lead.

Among fundraisers, politicians, environmentalists, and the elite classes, concerns always constitute a “crisis.” There would appear to be no modest problems. All thrive on bad news, regardless how exaggerated or fraudulent it may be. As a result, we get a constant distortion of the country's faults and little if any discussion of what's right with the world. Sadly, few of us are able to differentiate fact from fiction in this sea of gloom and doom.

The news media is a most willing collaborator in all of this. They adore the word “crisis” and use it as often as they can. “[I]t's one thing to highlight when the bad happens—as they should,” Easterbrook points out, “and another to pretend that the good does not happen, as they also do.”

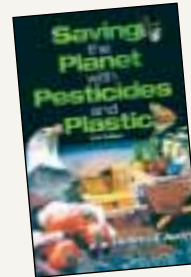
Lately, with most actual events being mainly positive, the media has become obsessed with the bad things that “might” happen. Easterbrook documents these situations in a manner that cannot help but make the reader finally understand the “big picture.”

An excellent example is his explanation of the minor panic the media caused when the President delayed a decision to reduce the 50-year-old arsenic standard for drinking water. We were led to believe by the media, egged on by the anti-Bush crowd, that each day the standard was not lowered to 10 parts per billion would mean countless Americans could perish. In fact, however, not a single death attributable to arsenic poisoning occurred during the half-century the 50 parts per billion standard was in effect.

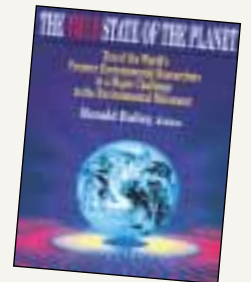
Similarly, Easterbrook's telling of how the media and environmental activists have distorted the totally positive impact of biotechnology on agriculture will take your breath away.

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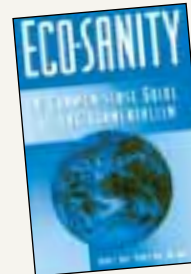
Sound Books on Sound Science



*Saving the Planet with
Plastics and Pesticides*
(2000)
by Dennis Avery



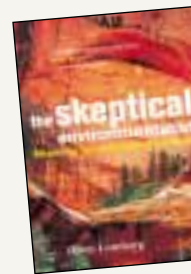
The True State of the Planet
(1995)
by Ronald Bailey



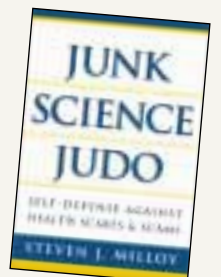
*Eco-Sanity: A Common-Sense Guide
to Environmentalism*
(1994)
by Joseph L. Bast et al.



*Rational Readings on
Environmental Concerns*
(1991)
by Jay H. Lehr, Ph.D.



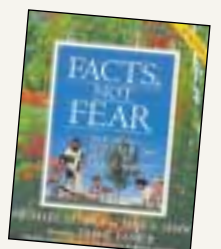
The Skeptical Environmentalist
(2001)
by Björn Lomborg



Junk Science Judo
(2001)
by Steven Milloy



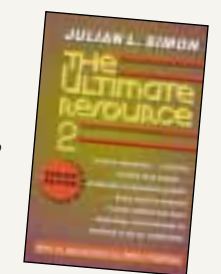
Trashing the Planet
(1989)
by Dixy Lee Ray



*Facts Not Fear: A Parent's
Guide to Teaching Children
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by Michael Sanera
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The State of Humanity
(1996)
by Julian Simon



The Ultimate Resource 2
(1998)
by Julian Simon

New Cars Are Dramatically Cleaner

by Ben Lieberman

Your next new car or truck will be the cleanest-burning one you've ever owned ... and it will mean the end to the already-diminishing problem of air pollution.

In mid-January, Environmental Protection Agency (EPA) Administrator Mike Leavitt unveiled 17 model year 2004 vehicles meeting tough new emissions requirements. Those provisions, which begin now and will be fully phased in by the end of the decade, demand 77 to 95 percent reductions in exhaust emissions for cars, SUVs, minivans, pickups, and all sizes of trucks. EPA is also requiring sharp reductions in sulfur content in both gasoline and diesel fuel, thereby allowing a new generation of pollution control devices to be used.

"It's a simple formula," said Leavitt. "Cleaner vehicles plus cleaner fuel equals cleaner air."

EPA estimates compliance costs at \$70 to \$250 per vehicle and less than 2 cents per gallon of fuel, though others believe the costs will be higher.

Partisan critics have been quick to point out the rules were put in place by the Clinton administration. Nevertheless, the Bush administration's adoption of the rules should help dispel the oft-repeated assertion the Bush EPA has rolled back or even gutted such clean air measures.

Getting Cleaner

Motor vehicles remain the largest source of smog-forming compounds and several other types of pollution, but the average vehicle on the road today is about 90 percent cleaner than those built during the 1970s. The newest vehicles are up to 99 percent cleaner.

Past reductions in vehicle pollution, along with emission reductions from power plants and factories, have led to dramatic improvements in air quality. A



EPA Administrator Mike Leavitt sits in a 2004 Mazda RX-8 after a news conference to unveil vehicles that use low-sulfur fuel to meet EPA's "Tier 2" requirements.

Getty

matic declines in emissions per vehicle, and there is no reason to believe that trend will change. Moreover, the shift in consumer preferences away from passenger cars and towards SUVs will have no effect, as the new standards apply more or less equally to both. A new SUV, even a large one, is considerably cleaner than a 10-year-old economy car.

Over the long term, these new standards signal nothing short of the end to air pollution as we know it. "Even after accounting for growth, total vehicle emissions will decline more than 80 percent

"Every year, emissions fall further as older and dirtier vehicles are retired and replaced with cleaner and more durable new ones. The new standards will accelerate that process ..."

recent EPA report concludes, "Since 1970, aggregate emissions of the six principal pollutants have been cut 48 percent."

Air pollution has not been eliminated—nor will it ever be—but the original goals set out in the 1970 Clean Air Act have largely been met.

Every year, emissions fall further as older and dirtier vehicles are retired and replaced with cleaner and more durable new ones. The new standards will accelerate that process, though it will take several years before these cars and trucks predominate on the roads.

Predicted increases in the number of vehicles in use and total miles traveled won't come close to slowing this progress. Such increases over the past three decades were more than offset by the dra-

matic declines in emissions per vehicle, and there is no reason to believe that trend will change. Moreover, the shift in consumer preferences away from passenger cars and towards SUVs will have no effect, as the new standards apply more or less equally to both. A new SUV, even a large one, is considerably cleaner than a 10-year-old economy car.

Of course, many activists and regulators are reluctant to admit success, and they can be expected to downplay the progress. But the reality is that Americans are literally driving towards clean air, and the end of the journey is in sight.

Ben Lieberman is director of air quality policy with the Competitive Enterprise Institute, in Washington, DC. His email address is blieberman@cei.org.

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New Jersey

Continued from page 1



New Jersey Governor James McGreevey signs legislation that will apply "California Clean Car" emission standards to automobiles sold in New Jersey.

Campbell, commissioner of the New Jersey Department of Environmental Protection. "This will demonstrate to leaders in Washington that a tougher standard is achievable without compromising the economy or consumer choices."

Campbell did not explain how dictating the composition of the state's future automobile market preserved or expanded "consumer choices." Nor did he explain how mandating the adoption of expensive technology would not "compromise the economy." Currently, low-emission vehicles, such as the Honda Civic hybrid, are 50 percent more expensive than their gas-powered counterparts.

"I never saw a cost that didn't get passed on to the consumer," said Assemblyman Richard Merkt (R-Morris). "That's the way it goes. We're going to mess up one of the most important industries in the state because we don't know what we're doing."

Reaction

The New Jersey Chamber of Commerce warned the measure would impose costs on business without resulting in improved air quality. "Clean air is something everyone can support," wrote Michael Egenton, the group's assistant vice president for government relations. "But costs and benefits must be included in every policy decision. In the case of the California Car legislation the cost and benefits just don't add up."

Joseph Bast, president of The Heartland Institute and publisher of *Environment & Climate News*, agreed. In a January letter to Egenton, he wrote, "adoption of the Clean Cars Act by New Jersey would have none of the beneficial effects claimed by environmental advocates. Federal car and truck emission standards are already as strict as California standards," he explained, "except for the [zero-emission vehicle] requirements, which

would probably increase rather than reduce total fleet emissions by slowing down fleet turn-over."

"This legislation is unnecessary, because today's cars are already 99 percent cleaner than their counterparts from the 1970s," said Eron Shostek, director of communications for the Alliance of Automobile Manufacturers, an industry trade group. "This bill would be all pocketbook pain, with no environmental gain."

"This new law is an example of the mischief that can occur in the 'lame duck' session of a legislature," observed Gregg M. Edwards, president of the Center for Policy Research of New Jersey, a think tank that focuses on New Jersey issues. "It also is another instance of the legislature's alarming inclination to mandate the use of technology that does not yet exist. This law is likely to accomplish nothing more than making local car dealers very anxious about the future of their businesses."

James M. Taylor is managing editor of *Environment & Climate News*. His email address is taylor@heartland.org.

INTERNET INFO

Heartland Institute President Joseph L. Bast's January 6, 2004 letter to the New Jersey Chamber of Commerce is available online at <http://www.heartland.org/Article.cfm?artId=14194>.

More information is also available at the Web sites of the Alliance of Automobile Manufacturers, <http://www.autoalliance.org/>, and the New Jersey Chamber of Commerce, <http://www.njchamber.com>.

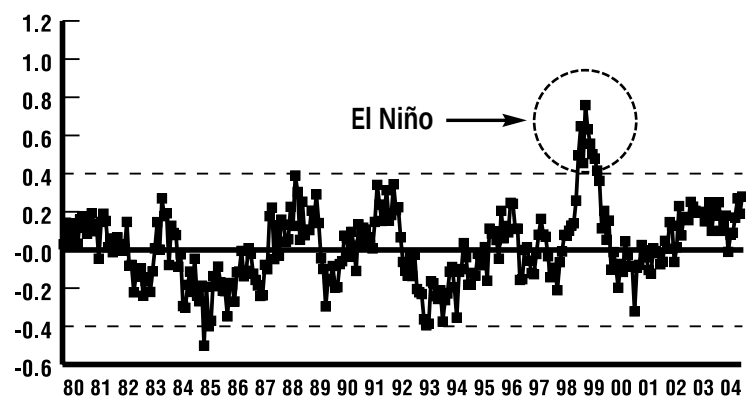
GLOBAL SATELLITE TEMPERATURES

EARTHTRACK

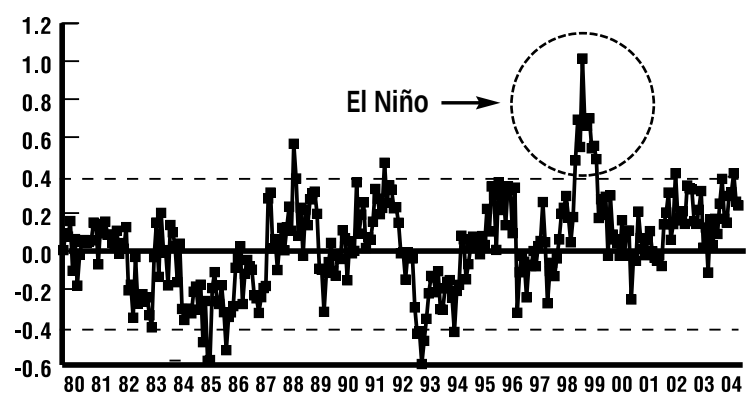
JANUARY 2004

The global average temperature (top) for September was 0.28°C above normal. The Northern Hemisphere's temperature (middle) was 0.24°C above normal. The Southern Hemisphere's temperature (bottom) was 0.32°C above normal.

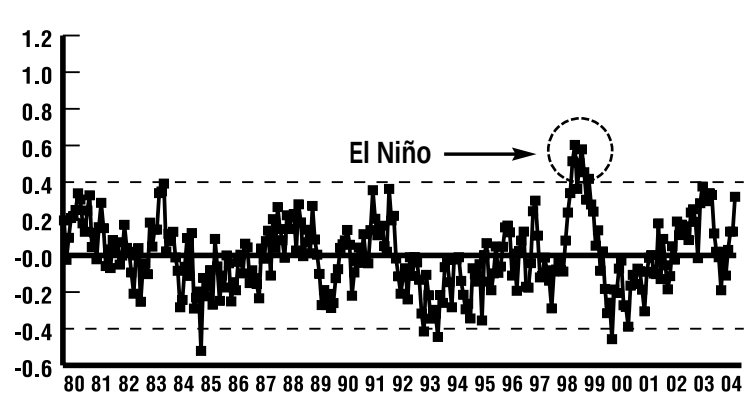
GLOBAL AVERAGE



NORTHERN HEMISPHERE



SOUTHERN HEMISPHERE



Each month, Earth Track updates the global averaged satellite measurements of the Earth's temperature. These numbers are important because they are real—not projections, forecasts, or guesses. Global satellite measurements are made from a series of orbiting platforms that sense the average temperature in various atmospheric layers. Here, we present the lowest level, which climate models say should be warming. The satellite measurements are considered accurate to within 0.01°C. The data used to create these graphs can be found on the Internet at http://vortex.nsstc.uah.edu/data/msu/t2lt/tltglhmm_5.1.

Mercury: Grain of Truth, Gram of Nonsense

by Robert Rio

You have probably heard or read the oft-repeated statement, "One gram of mercury can contaminate an entire 20-acre lake." It shows up in the environmental advocates' literature as well as in EPA and state agency documents and various fact sheets on mercury. The statement is meant to scare us into believing that mishandling a thermometer or emitting even one gram of mercury would have irreversible negative consequences. And you won't be able to eat the fish, either.

The statement is so definitive and exact there must be scientific proof behind it, right? One gram? A 20-acre lake? Government agencies wouldn't use a statement like that unless they had actually performed the study or found one that was peer-reviewed, would they? Especially since major policy decisions are being based on it.

"One gram of mercury has the ability to contaminate a 20 acre lake," says a document on EPA's Region 9 pollution prevention Web site. The document does not cite the source for this claim.

"Nowhere does [Ed Swain, Ph.D., of the Minnesota Pollution Control Agency] make the conclusion that one-gram of elemental mercury (like that from a thermometer) can contaminate a 20-acre lake. In fact, the study had nothing to do with the effects of mercury on water or fish."

On EPA's main Web site we find a 54-page "Economic Analysis of Including Mercury Containing Devices in the Universal Waste System, Notice of Proposed Rulemaking, February 15, 2002." "One gram of mercury," the document states, "can foul up to 5 million gallons of water." A different statement ... this time, with a footnote. It referenced a November 16, 2000, article in the *Boston Globe*, a 400-word piece on mercury thermometers. The statement in fact appeared in the article, but again there was no attribution.

A Google search finds legislator Jon Cooper from New York writing in May 2001, "According to the EPA, a typical fever thermometer contains about one gram of mercury, enough to contaminate a 20-acre lake."

"One gram of mercury," according to the Toxics Action Center, "is enough to make the fish in a 20-acre lake unsafe to eat for a year."

After searching 150 documents through Google, it became evident all were variations on the same theme. Everybody quoted each other; no one offered attribu-

tion to anything other than press releases or generic public information documents.

They are all serious misrepresentations of the dangers of mercury, and all try to simplify what is in reality a complicated process.

Contamination Calculation

Scientists know contamination is a function of volume, not surface area. A 20-acre lake would have a surface area of 871,600 square feet. Assume an average depth of 30 feet. That would give us 26,148,000 cubic feet—almost 200 million gallons of water. Can one gram of elemental mercury really contaminate 200 million gallons of water?

Turns out I wasn't the only one skeptical of this claim. In a letter to *Junkscience* magazine dated February 23, 2001, Dr. Kevin Wallace also cast aspersions on those claims. Wallace is director of the Occupational & Environmental Toxicology Clinic at Good Samaritan Regional Medical Center in Phoenix, Arizona. He led me to a scientist at the Minnesota Pollution Control Agency.

Ed Swain, Ph.D., of the Minnesota Pollution Control Agency, in an effort to determine the rate of atmospheric deposition of mercury in Minnesota, performed a series of core samples on several remote lakes in the state. The article he wrote, "Increasing Rate of Atmospheric Mercury Deposition in Midcontinental North America," appeared in the August 7, 1992 issue of *Science* magazine.

Based on the mercury in the core samples, he determined that in Minnesota the rate of atmospheric deposition (from rain, primarily) of mercury to a 20-acre parcel (lakes in this case) is approximately one gram per year. Swain then calculated that based on the size of Minnesota, approximately 6,000 pounds of mercury are deposited in a one-year period throughout Minnesota in order to reach the one-gram-per-20-acre conclusion. That's the data.

Nowhere does he make the conclusion that one gram of elemental mercury (like that from a thermometer) can contaminate a 20-acre lake. In fact, the study had nothing to do with the effects of mercury on water or fish.

Not only did the advocates misunderstand the study completely, but in their haste to grab headlines, they glossed over a few points in Swain's report:

- mercury deposited from natural sources (i.e., volcanic activity, ore leachate) accounts for 25-30 percent of all mercury;
- mercury deposition is a global problem;
- it is the soluble form of mercury found in rain that is the problem (not the elemental form found in thermometers). Soluble mercury, through a complex transformation, goes up into the atmosphere and comes down in rain, converting to a form known as methylmercury



that is absorbed by fish. Not all mercury converts to methylmercury—only about 5 percent, according to Swain, and even that is subject to some variability. And its effect on fish would be further conjecture, since that would depend on types of fish, reproduction rates, etc. In other words, it's a guess. Elemental mercury is rarely introduced to water bodies, despite the activists' thermometer analogy.

Swain's study has been misinterpreted and misquoted so many times he actually released a clarification of the study in October 2002.

Mercury in Fish

In the May 17, 2003 edition of *The Lancet*, one of the most respected medical journals in the world, Dr. Gary J. Myers and others from the University of Rochester Medical Center in New York present the findings of their study of mercury exposure in 776 mother-child pairs in the Seychelles islands (in the Indian Ocean) for 14 years.

The level of mercury in the ocean fish in the Seychelles is nearly identical to that in the United States (remember, mercury is a global problem). However, the women there eat fish up to 12 times per week, far more than we do in the U.S. Consequently, concentrations of mercury in indicator hair samples are many times higher among Seychelles women and their children than in the U.S.

Myers' conclusion (verbatim): "These data do not support the hypothesis that there is a neurodevelopmental risk from prenatal MeHg [methylmercury] exposure resulting solely from ocean fish consumption."

To my knowledge, EPA has never mentioned the results of this study in any of its literature. The May 17 report is the fifth follow-up Myers has published (others were published when the children were six months, 19 months, 29 months, and 66 months old).

We might not expect environmental advocates to have read and understood the work by Swain or Myers—but scientists at EPA and state agencies should have, and they have an obligation to present a balanced picture.

Robert Rio is vice president of environmental programs at Associated Industries of Massachusetts. His email address is rar@aimnet.org.

Scientists Expose Fishy Warnings about Farmed Salmon

Health benefits shown to far outweigh minor risks

by James M. Taylor

An article in the January 9 issue of *Science* magazine warned readers against eating more than one serving of farm-raised salmon a month, claiming the fish present a cancer risk. Scientists quickly responded, however, with evidence showing the health benefits of eating farm-raised salmon substantially outweigh any hypothetical health risks.

The article's authors measured the levels of 13 allegedly harmful chemicals in farm-raised salmon versus wild salmon. They found substantially higher levels of PCBs in farm-raised salmon than in wild salmon. The article reported farm-raised salmon exceeded Environmental Protection Agency (EPA) standards for levels of PCBs and two other chemicals.

"Our results suggest that if people do not want to be at increased risk for cancer, they should reduce their consumption [of farmed salmon] to the levels that are identified in our report," said David Carpenter, a coauthor of the study.

Newspapers across the country nevertheless ran with the *Science* magazine story, uncritically trumpeting its findings and advising consumers not to eat farmed salmon.

Fishy Claims Exposed

Its publication in *Science* notwithstanding, the report was clearly a work of advocacy rather than science. It was funded by the Pew Charitable Trusts, a leading funder of radical environmentalists and their organizations. "The foundations underwriting [international activist and advocacy environmental groups] are among the wealthiest in the United States," reported the Capital Research Center in a November 2003 report, "The International Green Agenda." "They include the Ford Foundation, John D. and Catherine T. MacArthur Foundation, Charles Stewart Mott Foundation, Pew Charitable Trusts, Rockefeller Brothers Fund, and David and Lucile Packard Foundation."

According to Steve Milloy, author of

Junk Science Judo: Self-Defense Against Health Scares and Scams, David Carpenter "has crusaded against PCBs for years. ... He's a well-known health-scare hyperventilator." Another of the report's coauthors, Milloy pointed out, is associated with Citizens for a Better Environment, "an eco-activist group [that] is currently waging a cleanup crusade over PCBs in Wisconsin's Fox River and Green Bay."

Industry experts, scientists, and policy analysts were quick to expose the fishy claims of the article.

Jim Gracie, president of Stolt Sea Farm Americas, noted the *Science* article measured chemical levels in salmon against a subset of EPA standards that are substantially out of line with the Food and Drug Administration's (FDA) guidance for safe consumption.

According to the study, farm-raised salmon contain only 1/80th of the FDA's recommended limits, said Gracie. "We're well, well, well below the limit given by FDA."

Dr. Charles Santerre, an associate professor of food and nutrition at Purdue University, agreed. He also pointed out that farmed salmon comply with other EPA standards. "Salmon is safe to eat since contaminants were well below limits established by the Food and Drug Administration (FDA), the World Health Organization (WHO), and the Environmental Protection Agency (EPA)," said Santerre.

Although farm-raised salmon contains modestly more of the analyzed chemicals than does wild salmon, to forego eating salmon for that reason would do more harm than good for most people, Santerre added.

He pointed out that the American Heart Association estimates 250,000 people die each year from sudden cardiac arrest. If 40 percent of those people ate more farm-raised salmon—thereby increasing their intake of highly beneficial omega fatty acids—100,000 people would increase their odds of avoiding such a death. By contrast, only one would hypothetically contract cancer as a result of increasing their intake of the chemicals reported in the *Science* article.

Likening the consumption of farm-raised salmon to automobile passengers wearing seatbelts, Santerre said, "Some people have died as a result of wearing seat belts, but the number of people saved by wearing seat belts is far greater. The comparative benefit of wearing your seat belt far outweighs the small risk of injury or death."

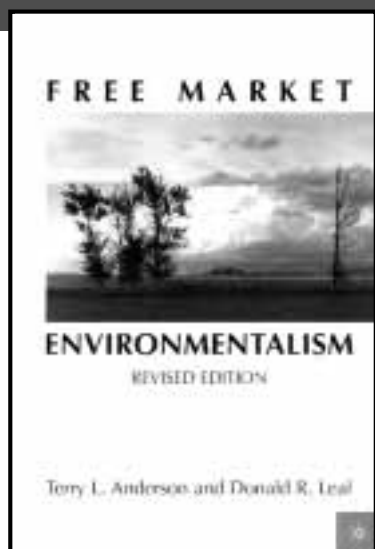
"We have so many people to feed and not an inexhaustible supply of fish in the wild, and a lot of the fisheries have become exhausted, so this is a very difficult issue," said Lynn Goldman, a scientist at the Johns Hopkins University Bloomberg School of Public Health. "It's not that easy to say, 'Okay, well, just eat wild fish.'"

Said Ken Green, director of the Centre for Studies in Risk, Regulation, and Environment at Canada's Fraser Institute, "Journalists covering the [*Science*] article, rather than simply quoting alarmists, needed to dig into the article itself, and ask hard questions about the sample size of the study, its meaning in a chronological perspective (PCB levels are already declining rapidly), and its meaning with regard to alternative food choices.

"As a report by the National Academies of Science points out," Green noted, "people consume far higher levels of PCBs and other persistent environmental chemicals in other foods, including beef, poultry, and dairy products."

James M. Taylor is managing editor of Environment & Climate News. His email address is taylor@heartland.org.

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INTERNET INFO

Visit the Salmon of the Americas Web site at <http://www.salmonoftheamericas.com/>, and Steven Milloy's JunkScience.com site at <http://www.junkscience.com/>.

The Capital Research Center's November 2003 *Foundation Watch* report, "The International Green Agenda," is available on the group's Web site at <http://www.capitalresearch.org/pubs/pdf/x3794140639.pdf>.

Ruling

Continued from page 1

Environmentalists and energy conservation obsessives declared the court's ruling "a big victory for consumers." They also declared up is down, black is white, night is day, and pigs really do fly.

Well, actually they didn't. But they might as well have.

No Victory for Consumers

You don't have to be some whiz-bang economist or regulatory specialist to laugh-off the claim that consumers "won" when the court decided as it did. All you need is a moment of reflection.

Energy efficiency standards, after all, remove products from the marketplace that are deemed "energy inefficient." Accordingly, supporters of the decision are literally arguing it's "a big victory for consumers" when the federal government prevents consumers from buying products they might otherwise wish to buy—and indeed have bought—for their entire lives. Only in Washington can denying consumers choices in the marketplace be deemed "pro-consumer."

"[T]he feds are essentially telling me I'm better off investing in a more efficient appliance than in my son's education. That is not only bizarre, it's insulting."

What conservationists really mean is that consumers "won" because, up until now, they were stupidly blowing their money on inefficient air conditioners and heat pumps, unwisely ignoring the more energy-efficient air conditioners and heat pumps that were attracting cobwebs in stores. Now that the courts have stepped in, the conservationists maintain, consumers will be unable to inflict such economic harm upon themselves.

That's what they actually mean, but it doesn't sound quite as good when plainly stated, does it?

Nor is it even true. According to the analysis offered by the Clinton administration in support of its proposed standard, the price of the average air conditioner on the market will increase from \$332 to \$435 ... and 40 percent of all consumers will never save enough on their energy bills to offset the higher price attached to the "efficient" air conditioner. So even by the conservationists' own calculations, 60 percent of consumers arguably may have "won," but 40 percent most surely "lost."

Opportunity Costs Abound

But wait, there's more. Those "winners" will have won only if the net economic savings gained from their forced investment in energy efficiency is greater than the returns that might have been available to them had they put their money in other investments. In other words, just because you save a net of 3 percent a year by buying the energy-efficient air conditioner does not mean you made a good investment. If

you could have gotten 7 percent a year by investing in municipal bonds, the federal mandate will have cost you money.

What about those of us who wouldn't have invested that money in something else? What if the extra \$100 would have been blown on dinner and a movie rather than on the energy-efficient air conditioner? Wouldn't those consumers be economically better off under this rule, and aren't those consumers the rule rather than the exception?

Perhaps. But what business is it of Congress, the Department of Energy, or the federal appeals court whether I spend \$100 for greater energy efficiency in my new air conditioner or \$100 on dinner and a movie? And how do they know how I can best spend my money?

The choice is not necessarily, of course, between economic frivolity and imposed eat-your-spinach-economics courtesy of the federal government. In my family's case, dollars that don't go to living expenses or the 401k go to my son's college fund—the entertainment budget is limited. So if I were in the market for an air conditioner or heat pump, the feds are essentially telling me I'm better off investing in a more efficient appliance than in my son's education. That is not only bizarre, it's insulting.

Increasing Energy Consumption

Of course, there are other arguments marshaled by the conservationists for these standards.

More efficient appliances, they say, will reduce energy demand, thus helping to prevent blackouts during hot summer days. It's estimated electricity demand will drop 1 percent during hot summer days because of these standards.

But if we think reducing demand during hot summer days is worthwhile, wouldn't it be better simply to ensure that the price of electricity during hot summer days reflects its cost? If regulators were better able to allocate scarce resources than markets do via the pricing mechanism, then socialism never would have collapsed in Eastern Europe.

Moreover, those who estimate energy-efficient air conditioners will cause demand to drop are ignoring fundamental laws of economics. If you reduce the cost of turning up your air conditioner on a summer day (which is exactly what an energy efficient air conditioner does), all things being equal, you will turn up your air conditioner on a summer day more often.

Economists who have studied this dynamic refer to it as "the rebound effect." They have discovered that energy efficiency standards save money and energy only if you don't acknowledge that reducing the marginal costs of energy consumption will result in more energy consumption. Once you take that rebound effect into account, much of the advertised energy savings from the tighter standards disappear.

No matter how you cut it, mandatory energy efficiency standards are a bad deal for consumers and the economy as a whole. No amount of Orwellian rhetoric or half-baked economics can change that fact.

Jerry Taylor is director of natural resource studies at the Cato Institute. His email address is jtaylor@cato.org.

Maryland Further Restricts Appliance Efficiency Choices



by James M. Taylor

Fresh on the heels of a federal appellate court decision restricting consumer choice in household air conditioners, the Maryland House of Delegates has passed legislation imposing even stricter standards on a wide range of appliances.

On January 20, the House of Delegates overrode Governor Bob Ehrlich's (R) veto of legislation that appears to be the most restrictive in the nation. The new law imposes onerous energy efficiency standards on a wide range of items, including ceiling fans, refrigerators, freezers, air conditioners, and heaters.

"Nationally, this is probably the most comprehensive energy efficiency bill," said Senator Paul Pinsky (D), who introduced the bill in the Maryland legislature.

Environmental activist groups have drawn up plans to introduce identical legislation in several other states. Moreover, fearing the expense of dealing with a patchwork of inconsistent state efficiency standards, the Gas Appliances Manufacturers

Association responded to the Maryland bill by entering into discussions with environmental groups regarding standards that would not vary from state to state.

Just one week before the Maryland vote, on January 13, the U.S. Court of Appeals for the Second Circuit rejected a Bush administration proposal to require a 20 percent energy efficiency improvement in air conditioners and heat pumps, noting the plan was not as stringent as a 30 percent improvement proposed by the Clinton administration. Because the Clinton proposal had completed the formal rulemaking process, the court determined, the Bush administration could not lower the efficiency requirement. Consumer advocates and appliance makers had protested the Clinton requirement would make appliances prohibitively expensive for many consumers.

James M. Taylor is managing editor of Environment & Climate News. His email address is taylor@heartland.org.

Enviro Group Sues Wind Farm to Stop Bird Deaths

New studies show greater-than-expected harm to humans, wildlife

by James M. Taylor

Giant wind turbines at Altamont Pass, California, are illegally killing more than 1,000 birds of prey each year, according to a lawsuit filed January 12 by the Center for Biological Diversity. The suit demands an injunction halting operation of the turbines until and unless protective measures are taken and highlights increasing concerns regarding a power source long hailed as environmentally friendly by environmental activist groups.

Thousands of Deaths Every Year

Thousands of wind turbines were built in Northern California's Altamont Pass region during the 1980s in response to activist groups' call for greater reliance on renewable energy sources. Construction of the wind turbines, however, has made the region one of the most deadly places in the world for a large variety of birds. Literally thousands of birds are killed by the turbines each year, including roughly 1,000 annual kills of such valued birds

"Once they began operating I couldn't work in my garden anymore. The noise was unbearable. It was as if someone was mixing cement in the sky."

DR. STEPEN BRIGGS

of prey as golden eagles, red-tailed hawks, and burrowing owls.

Complicating matters, Altamont Pass is a major migration route for birds of prey in North America. The federal Migratory Bird Treaty Act makes it illegal to kill migratory birds without permits. According to Benito Perez, special agent in charge of the U.S. Fish and Wildlife Service's Portland, Oregon, office of law enforcement, every killing of a migratory bird by the Altamont Pass wind turbines is a violation of federal law.

Moreover, the Bald and Golden Eagle Protection Act prohibits the killing of eagles. Yet in Altamont Pass, home to the nation's largest concentration of golden eagles, wind turbines kill hundreds of the majestic birds every year.

"Altamont has become a death zone for eagles and other magnificent and imperiled birds of prey," said Jeff Miller, a spokesman for the Center for Biological Diversity. "Birds come into the pass to hunt and get chopped up by the blades."

Deaths Unavoidable

Owners of the wind turbines assert they have gone to great measures to protect

birds from being sliced up by the turbine blades, but the technology simply does not exist to generate wind power without sacrificing an immense number of birds each year.

"It's so unfair to say we have not been actively trying to do anything," said Steve Stengel, a spokesman for Florida Power & Light Company, which owns many of the turbines. "We've done everything from installing perch guards to painting rotor blades."

Miller, however, was skeptical wind power generators are doing all they can to ameliorate bird deaths.

"We're asking the judge to throw the book at them," said Miller. "We're not suggesting they're going to be shut down. We are suggesting turbine owners out there need to take some measures to reduce bird kill, and that they come up with some adequate mitigation or compensation."

Many of the Center for Biological Diversity's recommendations for ameliorating bird deaths, such as moving the Altamont Pass turbines to different locations, would necessitate significant upfront expense and make wind power generation even less efficient than is already the case. Wind power is already significantly more expensive to produce than power from such traditional sources as oil, coal, and natural gas, even though wind power receives substantial subsidies from U.S. taxpayers.

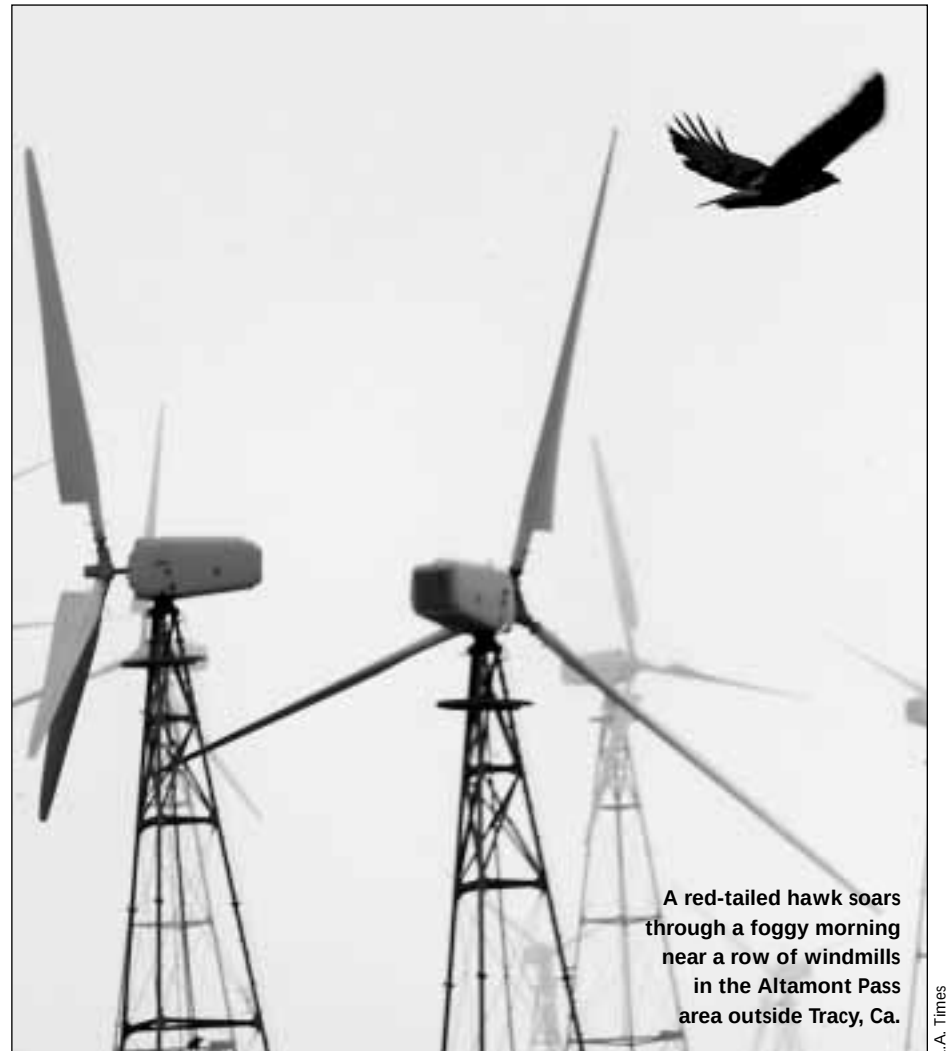
New Studies, Renewed Concerns

A study conducted by the U.S. Department of Energy's National Renewable Energy Laboratory found that Altamont Pass bird deaths are more prevalent than previously thought. According to the January 30 *Oakland Tribune*, previous studies conducted by wind farm operators had underestimated Altamont Pass bird kills by 25 to 300 percent. Moreover, new technologies designed to reduce the number of bird deaths will actually have the effect of increasing turbine bird kills.

The Renewable Energy Laboratory determined that new technology that would reduce the number of turbines by increasing the size of each tower's blades would kill more birds than the preexisting turbines. The larger turbines would increase the area of "swept" air and would have more lethal blades and components than their smaller cousins.

Similarly, the Laboratory found that replacing latticed towers with tubular ones—designed to keep birds away from turbine blades by discouraging the use of lattices for nesting and predation—would also result in a net increase in bird deaths.

The new study, summarized the *Tribune*, "suggests the [bird death] problem is more serious than previously



A red-tailed hawk soars through a foggy morning near a row of windmills in the Altamont Pass area outside Tracy, Ca.

L.A. Times

thought."

Other studies, also issued in January, showed wind turbines may be more dangerous to humans than had previously been thought.

On January 25, the *London Daily Telegraph* reported numerous studies show low-frequency noise emanating from wind turbines is causing a variety of ailments among area residents.

According to English physician Dr. Amanda Harry, who conducted one of the studies, "People demonstrated a range of symptoms from headaches, migraines, dizziness, palpitations, and tinnitus to sleep disturbance, stress, anxiety, and depression. These symptoms had a knock-on effect in their daily lives, causing poor concentration, irritability, and an inability to cope. It travels further than audible noise, is ground-borne and is felt through vibrations."

Similar findings were made in an unrelated study by Dr. Bridget Osborne. She presented a paper to the Royal College of General Practitioners documenting a significant increase in depression among residents of the North Wales village of Moel Maelogan after construction of a large wind turbine.

"There is a public perception that wind power is 'green' and has no detrimental effect on the environment," said Osborne. "However, these turbines make low-frequency noises that can be as damaging as high-frequency noises."

Wales archeologist Dr. Stepen Briggs initially welcomed news that a wind farm

was scheduled to be built nearby. "I'm as green as the next man and the developers assured us that the windmills would cause hardly any disturbance." However, Briggs quickly learned one of the significant downsides of wind turbines. "Once they began operating I couldn't work in my garden anymore. The noise was unbearable. It was as if someone was mixing cement in the sky."

Said Mark Taplin, who also witnessed construction of a wind farm near his Wales home, "It has been a miserable, horrible experience. They are 440 metres (roughly one quarter mile) away but if I step outside and they are not generating I know immediately because I can [finally] hear the silence. They grind you down—you can't get away from them. They make you very depressed. The chomp and swoosh of the blades creates a noise that beggars belief."

"Wind power may well be the least environmentally friendly idea ever proposed by environmentalists," noted Iain Murray, a senior fellow at the Competitive Enterprise Institute. "Conservationists as committed as Sen. Edward Kennedy (D-Massachusetts) and British television personality Dr. David Bellamy have come out against proposed uses of the technology. As a result, a degree of civil war has broken out in the environmental movement."

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Override

Continued from page 1

quences of the decision for other state/federal environmental controversies remain unclear.

Alaska Department of Environmental Conservation v. Environmental Protection Agency involved the Red Dog Mine, a large zinc mine located in northwest Alaska. Because of the mine's remote location, it runs its own electric generators, and thus is subject to Clean Air Act (CAA) requirements for power plant emissions.

Several years ago, the mine decided to expand operations and needed to add generation capacity. That triggered the CAA's requirement that major modifications at industrial facilities obtain a permit and install Best Available Control Technology (BACT).

Under the CAA, the state permitting authority—in this case the Alaska Department of Environmental Conservation (ADEC)—runs the permit program and decides what type of pollution controls must be installed in order to comply with BACT. Here, the mine owners and ADEC worked out the details of the permit, and the mine commenced its expansion project.

EPA the Ultimate Authority

But in an unusual move, EPA subsequently stepped in and declared the agreed-upon permit terms too lenient. EPA demanded the mine install more stringent, and more costly, emissions controls to meet the BACT requirements. ADEC challenged the right of EPA to second-guess them in this manner. The U.S. Court of Appeals for the Ninth

Circuit ruled against the state agency.

ADEC appealed to the Supreme Court, where the case was argued last October. The majority opinion, written by Justice Ruth Bader Ginsburg and joined by John Paul Stevens, Sandra Day O'Connor, David Souter, and Stephen Breyer, affirmed the lower court decision and upheld EPA's action.

The majority noted the CAA gives EPA ultimate oversight of the state-level permit program. It thus argued EPA has authority to overrule "a state agency's unreasonably lax BACT designation."

The Court concluded, "EPA has supervisory authority over the reasonableness of state permitting authorities' BACT determinations and may issue a stop construction order ... if a BACT selection is not reasonable." In other words, EPA decides what is and is not reasonable and thus has the last word on CAA permits.

Policy Rationale

Though the decision rested on the Court's interpretation of the CAA language, it also discussed the policy rationale for federal control over state decisions. The majority cited concerns, expressed by Congress, of a so-called race-to-the-bottom in which states unhindered by federal oversight would compete for industry by lowering environmental standards. Congress also had warned that states have no accountability for pollution that drifts into other states, thus any downwind states would be helpless victims of imported pollution absent federal intervention.

The majority failed to apply those policy arguments to the facts and circumstances at issue, however. Mines, of course, must be located where there are materials to be mined, thus the race-to-the-bottom

argument has little relevance. And since the Red Dog Mine is located well within Alaska's interior, more than a thousand miles away from the closest state, the interstate pollution argument would also seem irrelevant.

A four-member dissent, written by Justice Anthony Kennedy and joined by Chief Justice William Rehnquist and Justices Antonin Scalia and Clarence Thomas, strongly disagreed with the majority opinion. It stated the decision allowing EPA to second-guess ADEC's judgment on permit details "conflicts with the express language of the CAA, with sound rules of administrative law, and with principles that preserve the integrity of states in our federal system."

The state of Alaska, the dissent argues, had in place a permit program that was in full compliance with the law, thus EPA had no authority to step in and micromanage it. It also pointed out EPA never asserted ADEC's less-stringent permit terms would have resulted in a violation of any clean air standard.

With regard to what it deemed "EPA's distrust of state agencies," the dissent asserted such distrust is "inconsistent with the Act's clear mandate that states bear the primary role in controlling pollution, and, here, the exclusive role in making BACT determinations." In its view of Congressional intent, the dissent concluded, "Congress made the overriding judgment that states are more responsive to local conditions and can strike the right balance between preserving environmental quality and advancing competing objectives."

Implications

At the very least, EPA's victory in *ADEC v.*

EPA means that, in similar CAA permitting disputes between state and federal officials, the latter have the final say. The majority couched its decision in fairly narrow terms and focused on the statutory language and legislative history of the CAA, suggesting it may not apply to similar disputes involving other environmental laws.

Nevertheless, the dissent warned that "under the majority's reasoning, these other statutes, too, could be said to confer on federal agencies ultimate decisionmaking authority, relegating states to the role of mere provinces or political corporations, instead of coequal sovereigns entitled to the same dignity and respect."

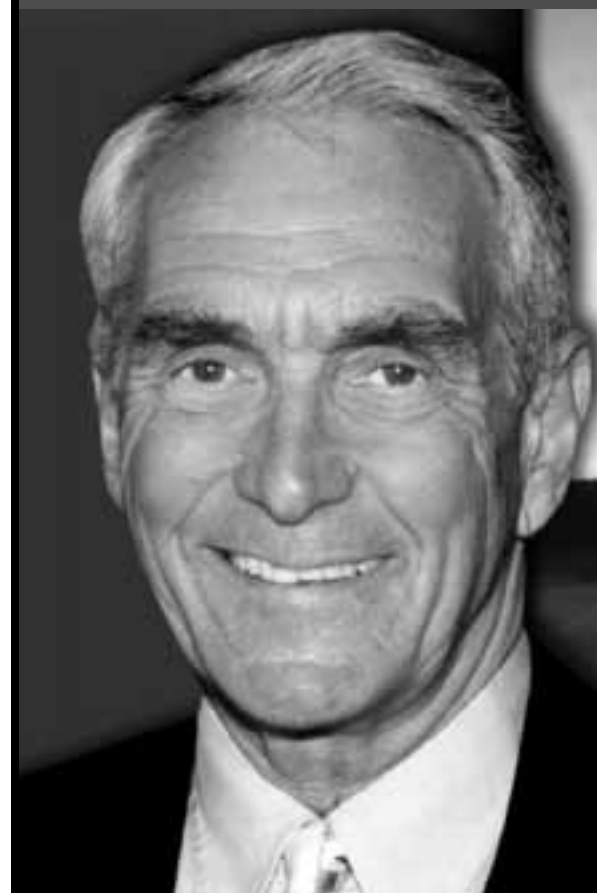
Other such disputes are currently in the courts, so it will soon become apparent whether this decision shifts the balance of environmental power further towards the federal government.

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INTERNET INFO

The syllabus and majority and dissenting opinions in *Alaska Department of Environmental Conservation v. Environmental Protection Agency* are available through PolicyBot™. Point your Web browser to <http://www.heartland.org>, click on the PolicyBot™ icon, and search for documents #14403 (syllabus), #14404 (majority opinion), and #14406 (dissenting opinion).

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JAMES TAYLOR

Al Gore's Untimely Global Warming Speech

Former Vice President Al Gore unwittingly marked the 20th anniversary of 1984, the anti-utopia described in George Orwell's 1949 novel, by delivering a twenty-first century version of Orwell's feared "newspeak."

Gore chose January 15, 2004, one of the coldest days in New York City's history, to rail against the Bush administration and global warming skeptics for their insistence that science should guide public policy, rather than the other way around. Global warming, Gore told a startled audience, is causing record *cold* temperatures.

"The extreme conditions are actually the end result of the planet warming," Gore claimed. "The Bush policies are leading to weather extremes."

Gore added, "I am particularly concerned because the vast majority of the most respected environmental scientists from all over the world have sounded a clear and urgent alarm."

Profiting from Alarmism

According to Gore's climatespeak, global warming theory can be validated by record cold temperatures just as easily as warmer temperatures. Do most scientists really believe this? In a word, no.

Thousands of scientists worldwide reject Gore's version of global warming theory. More than 17,000 of them have signed a petition saying no convincing scientific evidence supports the theory of catastrophic global warming, nor is there evidence to link human activities to such warming. You can read the petition for yourself at <http://www.oism.org/ppproject/s33p37.htm>.

These scientists and other global warming skeptics, argued Gore, have all been deceived by an evil force called The Polluters. "They are the targets of a massive and well-organized campaign of disinformation lavishly funded by polluters who are determined to prevent any action to reduce greenhouse gas emissions that cause global warming, out of a fear that their profits might be affected," Gore said.

This is more climatespeak. Scientists who feed the climate change scare stand the best chance of collecting the billions of dollars in government grants allocated for global warming research every year, and scholarly journals are more apt to publish their articles. Environmental groups raise billions of dollars each year by featuring global warming in their newsletters and fundraising letters.

Even big energy companies, like Enron, have actively lobbied the federal government to cap greenhouse gas emissions

and adopt an emissions credit trading system, because they are well-positioned to earn additional profits from such trading. Some big petroleum companies, like BP and Shell, lobby for greenhouse gas emission caps that would increase the value of their natural gas holdings.

Investing in Science

The U.S. has spent \$18 billion on climate research since 1990—three times as much as any other country. The more we learn about the causes and consequences of climate change, the less tenable the theory of global warming becomes.

Science has documented that the polar ice caps are not threatened by catastrophic melting. Sea levels have not risen. Satellite measurements of the Earth's lower atmosphere show no warming trend. Paleoclimatologists report natural variability that is more extensive, and occurs more rapidly, than previously supposed.

In a twist of logic that would impress Orwell himself, the global warming alarmists claim further research is unnecessary and the equivalent of moral cowardice. Orwell's thought police realized the scientific method was the enemy of the dictatorship and newspeak; similarly, science is the enemy of climatespeak.

Not only do the alarmists mimic Orwell's thought police, but they call to

mind a scene from another science fiction classic, Stanley Kubrick's *2001: A Space Odyssey*. A discrepancy between human impression and a computer's computations "can only be attributable to human error," reports HAL the computer. Alarmists allege that the satellite data—thought to be accurate to within .01° C—are unreliable because of human error in interpreting the data. Yet they rely uncritically on data from land-based stations that have seen changes in physical surroundings and measurement techniques that make them far less reliable.

Even James Hansen, who first brought global warming to the public consciousness with his dire climate predictions in the late 1980s, now acknowledges alarmist global warming scenarios are largely overstated and have become increasingly unlikely as technology has progressed.

Before we hand over our economy and personal freedoms to today's version of Big Brother in Orwell's 1984, we need to take a deep breath, study the facts, and base our decisions on science rather than climatespeak. Or as HAL would suggest, "calm down; take a stress pill and think things over."

James M. Taylor is managing editor of Environment & Climate News. His email address is taylor@heartland.org.

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